

Nominal Sublicense Agreement with Malvern Family Resource Centre for Use of a Portion of the Finch Hydro Corridor as a Community Garden

Date: May 9, 2025

To: General Government Committee

From: Executive Director, Corporate Real Estate Management

Wards: 23 - Scarborough North

SUMMARY

The purpose of this report is to seek Council authority to enter into a nominal sublicense agreement (the "Sublicense Agreement") with the sublicensee, the Malvern Family Resource Centre ("MFRC"), to permit the non-exclusive use of approximately 2.6 acres of land located within the Finch Hydro Corridor, in the vicinity of Morningside Avenue and McNicoll Avenue (the "Sublicensed Area"), as more particularly outlined in Appendix A of this report. The Sublicense Agreement will be for a term of five years with one option to extend for a further term of five years and will allow the MFRC to expand and continue operating a community garden under the City's Community Engagement and Entrepreneurial Development ("CEED") Gardens Pilot Program.

Since 2021, the MFRC has been using a portion of the Sublicensed Area to operate a community garden to serve the Malvern neighbourhood in Scarborough. The MFRC is advancing plans to expand the community gardens by an additional one acre, bringing the total Sublicensed Area to approximately 2.6 acres.

The City, as licensee, entered into a Master Licence of Land for Public Recreational Purposes dated October 26, 2010 with Ontario Infrastructure and Lands Corporation ("OILC"), as licensor, for the Finch Hydro Corridor lands (the "Master License Agreement"). The MFRC has received renewed approval from Hydro One Networks Inc. ("HONI") for continued use of the site, as well as for the proposed expansion of the garden.

RECOMMENDATIONS

The Executive Director, Corporate Real Estate Management recommends that:

1. City Council authorize the Executive Director, Corporate Real Estate Management to enter into a sublicense agreement (the "Sublicense Agreement")

with the Malvern Family Resource Centre for the non-exclusive use of approximately 114,854 square feet (2.6 acres) of land within the Finch Hydro Corridor, as generally outlined in Appendix A, on terms and conditions set out in Appendix C to this report, and on such other or amended terms as may be acceptable to the Executive Director, Corporate Real Estate Management, in a form satisfactory to the City Solicitor.

2. City Council authorizes each of the Executive Director, Corporate Real Estate Management, and the Director, Real Estate Services, Corporate Real Estate Management individually to execute the Sublicense Agreement, and any related documents on behalf of the City.

3. City Council authorizes the Executive Director, Corporate Real Estate Management to administer and manage any historic sublicense agreements with Malvern Family Resource Centre, including assessing any outstanding arrears, and related repayment plans and relief agreements.

4. City Council authorizes the Executive Director, Corporate Real Estate Management, their successors and designates, to administer and manage the Sublicense Agreement, including the provision of any consents, approvals, waivers, notices (including notice of termination) provided that the Executive Director, Corporate Real Estate Management may, at any time, refer consideration of such matters to City Council for direction and determination.

FINANCIAL IMPACT

The Sublicense Agreement will be provided for nominal consideration. There is no financial impact to the City. MFRC will be responsible for all costs associated with the occupation, use, construction, installation, operation, and maintenance of the garden (as per Appendix C), as well as insurance, utility connections, and compliance with all third-party requirements, as well as a proportionate share of applicable taxes or Payments In Lieu of Taxes ("PILT").

The Chief Financial Officer and Treasurer has reviewed this report and agrees with the information as presented in the Financial Impact Section.

DECISION HISTORY

At its meeting of November 13, 14, 15 and 18, 2013, City Council adopted the Toronto Agricultural Program consisting of the City-Sector Steering Committee, Working Group and 2013-2014 Work Plan. Council also provided several directions to staff related to activities to scale up Toronto's urban agriculture.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2013.PE23.1>

At its meeting held on August 25, 26 and 27, 2010, City Council, pursuant to GM33.6, authorized the Master Licence Agreement, which permits certain parcels of hydro

corridor land to be used by the City for recreational purposes, subject to certain conditions set out therein. Under delegated authority, the Master Licence Agreement has been amended a number of times to add additional lands, and renewed since its initial execution.

<https://secure.toronto.ca/council/agenda-item.do?item=2010.GM33.6>

COMMENTS

Background

The CEED Gardens Pilot Program was conceived in 2015 as part of the Council-approved Toronto Agricultural Program to support promotion of agricultural activities, facilitate access to land for agriculture and identify and address policy barriers to the expansion of agriculture in Toronto. The program aims to support and provide residents with opportunities to develop urban agriculture and entrepreneurial skills by growing and selling garden produce. A key objective of the program is to increase community access to nutritious food.

Social Development has led this program since its inception and continues to work closely with community partners and City Divisions, including Corporate Real Estate Management, and Parks and Recreation.

The MFRC was selected as one of two CEED garden operators. Through the CEED Program and the original sublicense agreement executed in 2019 (as documented by Delegated Authority Form No. 2019-138), the MFRC was permitted to install, operate and maintain a community garden within the sublicensed area of the Finch Hydro Corridor, in accordance with the terms of the CEED program. Prior to commencing, the MFRC obtained necessary consents for construction and operations of the garden from HONI. The sublicensed area is located in the Malvern neighbourhood of Scarborough, near the intersection of Morningside Avenue and McNicoll Avenue.

Malvern Urban Farm

The Malvern CEED Garden, known locally as Malvern Urban Farm, officially opened in April 2021, after many years of community consultations, negotiations with stakeholders, and other preparations. Malvern Urban Farm is an example of transforming unused outdoor space into a community-driven initiative that builds knowledge and skills, celebrates cultural diversity, improves food security for the local community and contributes to a local sustainable food system. The farm provides free growing space and farm infrastructure to community members to start micro farm businesses.

Since breaking ground in 2021, Malvern's CEED Garden has worked with 19 community farmers who return each summer to grow food for themselves and their neighbours. These farmers include local youth and seniors, ranging in age from 24 to 70 years. Thanks to this income-generating project, participants have reported making up to \$2,000 in supplementary household income per season by selling the fruits and vegetables they grow on their plots.

The Malvern CEED Garden is also an educational site, hosting children's camps and agricultural skills training sessions for youth. To date, they have worked with over 400 children in the Malvern community. Youth participants help with planting, learn about the growing cycle, and actively participate in supporting their local food system through a participatory learning approach.

The farm has grown and distributed over 100,000 pounds of food in Malvern, a neighborhood that experiences high rates of food insecurity. The MFRC operates a weekly low-cost farmer's market where families can access the fresh organic fruits and vegetables grown on the farm.

Growing the Malvern Urban Farm

In 2023, the MFRC received a petition signed by over 60 community members urging an expansion of the farm. The proposed expansion of the farm will provide space to accommodate eight to twelve more community farmers each season and will increase opportunities for on-farm youth education programming. It is also expected to expand the capacity for ongoing research collaboration with the University of Toronto which is currently exploring the climate benefits and carbon sequestration potential of urban agriculture.

To complement the farm expansion, the MFRC is launching the Scarborough Urban Farm Lab in the summer of 2025. This initiative will support other community and grassroots organizations to develop their own CEED gardens by replicating this successful model in other communities across the city.

New Nominal Sublicense Agreement

To enable the MFRC to continue and expand the operations of Malvern Urban Farm, staff recommend the City to enter into a non-exclusive nominal Sublicense Agreement with the MFRC for a period of five years with the MFRC's option to extend the term for a further period of five years. The Sublicense Agreement also encompasses an expanded sublicensed area by one acre, bringing the total Sublicensed Area to approximately 2.6 acres.

The City licences the Finch Hydro Corridor lands under a Master Licence Agreement with OILC. The MFRC has received renewed approval HONI for continued use of the site, as well as for the proposed expansion of the garden.

In accordance with the terms of the Sublicense Agreement, the MFRC will be responsible for the obligations of the City related to the Sublicensed Area set out in the Master Licence Agreement and the HONI Construction Approval Letter including costs associated with the use of the Sublicensed Area, all taxes, rates or grants in lieu of taxes paid by the City to the OILC in each year of the Sublicensed Agreement.

The City has identified outstanding arrears for the original sublicense agreement executed by the MFRC, estimated at approximately \$11,000. Staff have commenced discussions with the MFRC to assess the history of these outstanding amounts and opportunities around recovery and potential relief strategies.

The major terms and conditions of the HONI Construction Approval Letter and the Sublicense Agreement are outlined in Appendix B and Appendix C respectively.

CONTACT

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SIGNATURE




Patrick Matozzo
Executive Director, Corporate Real Estate Management

ATTACHMENTS

Appendix A - Property Sketch and Legal Description of Sublicensed Area
Appendix B - Major Terms and Conditions of HONI Construction Approval Letter
Appendix C - Major Terms and Conditions of Sublicense Agreement




Appendix A – Property Sketch and Legal Description of Sublicensed Area

Legal Description: Part of Lot 14, Concession 4, City of Toronto

-  Lands Owned by His Majesty the King in the Right of Ontario
-  Expansion Area
-  part of City Master Park licence (Toronto 632.1-3020, Sch. B62)



Part of Lot 14, Concession 4, Former City of Scarborough, now City of Toronto

-  Bill 58 Corridor Lands
-  Licensed Area: 11.17 acres
-  Taxable Area: 1.636 acres



Appendix B - HONI Construction Approval Terms

General Requirements	<ul style="list-style-type: none"> • Valid for one year from December 23, 2024. • Subject to Hydro One and OILC final approval. • No construction until an occupation agreement is executed. • Post-construction site inspection required. • Temporary fencing must delineate the use area.
Planting Restrictions	<ul style="list-style-type: none"> • No plantings over three metres in mature height. • All species must be approved by Hydro One. • No planting within 15 metres of transmission structures.
Horizontal and Vertical Clearances	<ul style="list-style-type: none"> • Maintain 15 metre horizontal clearance from transmission structures. • Three metre radius around structures must remain unpaved. • Clearance under conductors must meet Occupational Health and Safety Act standards.
Construction Near Towers	<ul style="list-style-type: none"> • No heavy machinery within 10 meters of tower footings. • Hand tools or vacuum trucks required for close work. • Temporary fencing or jersey barriers must be used.
Access and Site Maintenance	<ul style="list-style-type: none"> • Six meter-wide access route to be maintained. • No obstruction of Hydro One facilities. • Site must be kept clean and free of debris.
Grading, Drainage and Stormwater	<ul style="list-style-type: none"> • No interference with natural drainage. • Catch basins must be on paved/concrete surfaces. • Proponent is liable for damage caused by drainage issues.
Safety and Liability	<ul style="list-style-type: none"> • Proponent assumes full liability. • Must arrange utility locates prior to digging. • Hydro One not liable for weather-related damage. • Hydro One can interrupt occupation for maintenance or emergencies.
Prohibited Activities	<ul style="list-style-type: none"> • No structures, including tents or trailers. • No vehicle parking in 500 kilovolt corridors. • No fuel storage, snow dumping, burning, or stockpiling. • No unapproved fill or debris storage.

Appendix C - Major Terms and Conditions of Sublicense Agreement

Licensor:	City of Toronto
Sublicensee:	Malvern Family Resource Centre ("MFRC")
Location:	Hydro Corridor lands near Morningside Avenue and McNicoll Avenue, Toronto
Sublicensed Area:	Approximately 114,854 square feet (2.6 acres), as shown in Appendix A, including the expanded garden footprint
Term:	Five years
Option to Extend:	Provided that the Sublicensee is not in default at the time of the request and has never been in default beyond any applicable curing period, the Sublicensee shall have one option to extend the Term of the Sublicense for a period of five years at a nominal fee of \$2 for the duration of the Term, plus the Other Fees (as defined below).
Type of Use:	Non-exclusive use of the Sublicensed Area for operation of a community garden under the CEED Gardens Pilot Program
Sublicense Fee:	Nominal fee of \$2 for the Term
Other Fees:	The Sublicense shall be completely net and carefree to the Licensor. The Sublicensee shall be responsible for all taxes (including Payments In Lieu of Taxes) and costs whatsoever, including but not limited to, any special assessments, harmonized sales tax, rental taxes, operating costs, utilities, and all costs with respect to the Sublicensed Lands, and all construction, operation, repair, maintenance and replacement costs arising therefrom.
Conditions:	<ol style="list-style-type: none"> 1. HONI Construction Approval Letter (as defined in the 2019 Sublicense Agreement); 2. The Province and HONI providing their consent to this sublicense under the Master Licence Agreement.

Licensors:	City of Toronto
Permitted Use:	<ul style="list-style-type: none"> Establishment, operation, and maintenance of a community garden, including planting beds and a pedestrian pathway Use must comply with terms of the Master Licence Agreement with OILC and Construction Approval conditions set by Hydro One Networks Inc. (HONI) No permanent structures, signage, or installations without prior written consent No storage, dumping, or unauthorized planting permitted
Capital Improvements:	All infrastructure (e.g., beds, fencing, stones) to be installed and maintained by the Sublicensee at its cost, subject to prior approval from the City; improvements will remain the property of the City unless otherwise agreed to in writing.
Insurance:	<ul style="list-style-type: none"> Commercial General Liability: Minimum \$5 million per occurrence Automobile Liability: Minimum \$2 million per occurrence Proof of insurance must be provided in a form acceptable to the City and maintained throughout the term
Responsibilities:	<p>The Sublicensee will be responsible for:</p> <ul style="list-style-type: none"> All operating and maintenance costs All taxes, rates, and Payments In Lieu of Taxes (PILT) charges payable by the City related to the Sublicensed Area under the Master Licence Agreement Compliance with all applicable laws, utility requirements, and third-party conditions
Priority:	The Master Licence Agreement will take priority over the Sublicense Agreement.
Termination:	<ul style="list-style-type: none"> The City may terminate upon 10 days' written notice of default if not remedied Either party may terminate the agreement with 30 days' prior written notice without cause